

AMENDED IN SENATE APRIL 5, 2010

**SENATE BILL**

**No. 1181**

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**Introduced by Senator Cedillo**

February 18, 2010

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~~An act relating to professions and vocations. An act to amend Sections 8030.2, 8030.4, 8030.6, and 8030.8 of, and to add and repeal Section 8030.5 of, the Business and Professions Code, relating to shorthand reporters, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1181, as amended, Cedillo. Shorthand reporters: Transcript Reimbursement Fund.

*Existing law provides for the certification of shorthand reporters by the Court Reporters Board of California. Existing law requires certain fees and revenues collected by the board to be deposited into the Transcript Reimbursement Fund, to be available to provide reimbursement for the cost of providing shorthand reporting services to low-income litigants in civil cases. Existing law provides that persons appearing pro se to represent themselves at any stage of a case are not eligible to apply for funds from the Transcript Reimbursement Fund. Existing law requires all unencumbered funds remaining in the Transcript Reimbursement Fund as of January 1, 2011, to be transferred to the Court Reporters' Fund, and repeals these provisions on January 1, 2011.*

*This bill would, until January 1, 2013, authorize low-income persons appearing pro se to apply for funds from the Transcript Reimbursement Fund, subject to specified requirements and limitations. The bill would require the board, by January 1, 2012, to submit a report to the Legislature that includes a summary of the expenditures and claims*

*from the Transcript Reimbursement Fund by these persons. The bill would authorize charges for instant visual display services for depositions to be reimbursed from revenues in the fund. The bill would require unencumbered funds remaining in the Transcript Reimbursement Fund as of January 1, 2013, to be transferred to the Court Reporters' Fund, would repeal these provisions on January 1, 2013, and would make related changes. By extending the operation of the Transcript Reimbursement Fund, which is a continuously appropriated fund, the bill would make an appropriation.*

~~Existing law establishes the Court Reporters Board of California and makes it responsible for issuing a certificate to practice shorthand reporting to qualified applicants. Under existing law, until January 1, 2011, excess funds, as specified, generated by the initial certificate fee collected by the board are transferred from the Court Reporters' Fund to the Transcript Reimbursement Fund to provide shorthand reporting services for low-income litigants in civil cases.~~

~~This bill would state the intent of the Legislature to enact legislation addressing issues relating to the Transcript Reimbursement Fund.~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 8030.2 of the Business and Professions  
2     Code is amended to read:  
3     8030.2. (a) To provide shorthand reporting services to  
4     low-income litigants in civil cases, who are unable to otherwise  
5     afford those services, funds generated by fees received by the board  
6     pursuant to subdivision (c) of Section 8031 in excess of funds  
7     needed to support the board's operating budget for the fiscal year  
8     in which a transfer described below is made shall be used by the  
9     board for the purpose of establishing and maintaining a Transcript  
10    Reimbursement Fund. The Transcript Reimbursement Fund shall  
11    be established by a transfer of funds from the Court Reporters'  
12    Fund in the amount of three hundred thousand dollars (\$300,000)  
13    at the beginning of each fiscal year. Notwithstanding any other  
14    provision of this article, a transfer to the Transcript Reimbursement  
15    Fund in excess of the fund balance established at the beginning of  
16    each fiscal year shall not be made by the board if the transfer will

1 result in the reduction of the balance of the Court Reporters' Fund  
2 to an amount less than six months' operating budget.

3 (b) All moneys held in the Court Reporters' Fund on the  
4 effective date of this section in excess of the board's operating  
5 budget for the 1996–97 fiscal year shall be used as provided in  
6 subdivision (a).

7 (c) Refunds and unexpended funds that are anticipated to remain  
8 in the Transcript Reimbursement Fund at the end of the fiscal year  
9 shall be considered by the board in establishing the fee assessment  
10 pursuant to Section 8031 so that the assessment shall maintain the  
11 level of funding for the Transcript Reimbursement Fund, as  
12 specified in subdivision (a), in the following fiscal year.

13 (d) The Transcript Reimbursement Fund is hereby created in  
14 the State Treasury. Notwithstanding Section 13340 of the  
15 Government Code, moneys in the Transcript Reimbursement Fund  
16 are continuously appropriated for the purposes of this chapter.

17 (e) Applicants who have been reimbursed pursuant to this  
18 chapter for services provided to litigants and who are awarded  
19 court costs or attorneys' fees by judgment or by settlement  
20 agreement shall refund the full amount of that reimbursement to  
21 the fund within 90 days of receipt of the award or settlement.

22 (f) Subject to the limitations of this chapter, the board shall  
23 maintain the fund at a level that is sufficient to pay all qualified  
24 claims. To accomplish this objective, the board shall utilize all  
25 refunds, unexpended funds, fees, and any other moneys received  
26 by the board.

27 (g) Notwithstanding Section 16346 of the Government Code,  
28 all unencumbered funds remaining in the Transcript  
29 Reimbursement Fund as of January 1, ~~2011~~ 2013, shall be  
30 transferred to the Court Reporters' Fund.

31 (h) This section shall remain in effect only until January 1, ~~2011~~  
32 2013, and as of that date is repealed, unless a later enacted statute,  
33 that is enacted before January 1, ~~2011~~ 2013, deletes or extends  
34 that date.

35 *SEC. 2. Section 8030.4 of the Business and Professions Code*  
36 *is amended to read:*

37 8030.4. As used in this chapter:

38 (a) "Qualified legal services project" means a nonprofit project  
39 incorporated and operated exclusively in California that provides  
40 as its primary purpose and function legal services without charge

1 to indigent persons, has a board of directors or advisory board  
2 composed of both attorneys and consumers of legal services, and  
3 provides for community participation in legal services  
4 programming. Legal services projects funded either in whole or  
5 in part by the Legal Services Corporation or with Older Americans  
6 Act funds are presumed to be qualified legal services projects for  
7 the purposes of this chapter.

8 (b) “Qualified support center” means an incorporated nonprofit  
9 legal services center, having an office or offices in California,  
10 which office or offices provide legal services or technical assistance  
11 without charge to qualified legal services projects and their clients  
12 on a multicounty basis in California. Support centers funded either  
13 in whole or in part by the Legal Services Corporation or with Older  
14 Americans Act funds are presumed to be qualified legal services  
15 projects for the purposes of this chapter.

16 (c) “Other qualified project” means a nonprofit organization  
17 formed for charitable or other public purposes, not receiving funds  
18 from the Legal Services Corporation or pursuant to the Older  
19 Americans Act, which organization or association provides free  
20 legal services to indigent persons.

21 (d) “Pro bono attorney” means any attorney, law firm, or legal  
22 corporation, licensed to practice law in this state, that undertakes  
23 without charge to the party, the representation of an indigent  
24 person, referred by a qualified legal services project, qualified  
25 support center, or other qualified project, in a case not considered  
26 to be fee generating as defined in this chapter.

27 (e) “Applicant” means a qualified legal services project,  
28 qualified support center, other qualified project, or pro bono  
29 attorney applying to receive funds from the Transcript  
30 Reimbursement Fund established by this chapter. ~~The term~~  
31 ~~“applicant” shall not include persons appearing pro se to represent~~  
32 ~~themselves at any stage of the case.~~

33 (f) (1) “Indigent person” means any of the following:

34 (A) A person whose income is 125 percent or less of the current  
35 poverty threshold established by the Office of Management and  
36 Budget of the United States.

37 (B) A person who is eligible for supplemental security income.

38 (C) A person who is eligible for, or receiving, free services  
39 under the Older Americans Act or the Developmentally Disabled  
40 Assistance Act.

1 (D) A person whose income is 75 percent or less of the  
2 maximum level of income for lower income households as defined  
3 in Section 50079.5 of the Health and Safety Code, for purposes of  
4 a program that provides legal assistance by an attorney in private  
5 practice on a pro bono basis.

6 (2) For the purposes of this subdivision, the income of a person  
7 who is disabled shall be determined after deducting the costs of  
8 medical and other disability-related special expenses.

9 (g) “Fee-generating case” means any case or matter that, if  
10 undertaken on behalf of an eligible client by an attorney in private  
11 practice, reasonably may be expected to result in payment of a fee  
12 for legal services from an award to a client, from public funds, or  
13 from an opposing party. A reasonable expectation as to payment  
14 of a legal fee exists wherever a client enters into a contingent fee  
15 agreement with his or her lawyer. If there is no contingent fee  
16 agreement, a case is not considered fee generating if adequate  
17 representation is deemed to be unavailable because of the  
18 occurrence of any of the following circumstances:

19 (1) If the applicant has determined that referral is not possible  
20 because of any of the following:

21 (A) The case has been rejected by the local lawyer referral  
22 service, or if there is no such service, by two private attorneys who  
23 have experience in the subject matter of the case.

24 (B) Neither the referral service nor any lawyer will consider the  
25 case without payment of a consultation fee.

26 (C) The case is of the type that private attorneys in the area  
27 ordinarily do not accept or do not accept without prepayment of  
28 a fee.

29 (D) Emergency circumstances compel immediate action before  
30 referral can be made, but the client is advised that, if appropriate  
31 and consistent with professional responsibility, referral will be  
32 attempted at a later time.

33 (2) If recovery of damages is not the principal object of the case  
34 and a request for damages is merely ancillary to an action for  
35 equitable or other nonpecuniary relief or inclusion of a  
36 counterclaim requesting damages is necessary for effective defense  
37 or because of applicable rules governing joinder of counterclaims.

38 (3) If a court appoints an applicant or an employee of an  
39 applicant pursuant to a statute or a court rule or practice of equal  
40 applicability to all attorneys in the jurisdiction.

(4) In any case involving the rights of a claimant under a public supported benefit program for which entitlement to benefit is based on need.

(h) “Legal Services Corporation” means the Legal Services Corporation established under the Legal Services Corporation Act of 1974, Public Law 93-355, as amended.

(i) “Supplemental security income recipient” means an individual receiving or eligible to receive payments under Title XVI of the Social Security Act, Public Law 92-603, as amended, or payment under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) “Lawyer referral service” means a lawyer referral program authorized by the State Bar of California pursuant to the rules of professional conduct.

(k) “Older Americans Act” means the Older Americans Act of 1965, Public Law 89-73, as amended.

(l) “Rules of professional conduct” means those rules adopted by the State Bar pursuant to Sections 6076 and 6077.

(m) “Certified shorthand reporter” means a shorthand reporter certified pursuant to Article 3 (commencing with Section 8020) performing shorthand reporting services pursuant to Section 8017.

(n) “Case” means a single legal proceeding from its inception, through all levels of hearing, trial, and appeal, until its ultimate conclusion and disposition.

(o) “Developmentally Disabled Assistance Act” means the Developmentally Disabled Assistance and Bill of Rights Act of 1975, (42 U.S.C. Sec. 6001 et seq.) as amended.

(p) This section shall remain in effect only until January 1, ~~2011~~ 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2011~~ 2013, deletes or extends that date.

*SEC. 3. Section 8030.5 is added to the Business and Professions Code, to read:*

*8030.5. (a) Notwithstanding subdivision (e) of Section 8030.4, as used in this chapter the term “applicant” also means an indigent person, as defined in subdivision (f) of Section 8030.4, appearing pro se to represent himself or herself at any stage of the case and applying to receive funds from the Transcript Reimbursement Fund established by this chapter. The person shall provide a fee waiver from the court to establish indigent status.*

1     ***(b) Notwithstanding Section 8030.6, disbursements to cover the***  
2     ***cost of providing transcripts to applicants pursuant to this section***  
3     ***shall not exceed thirty thousand dollars (\$30,000) annually and***  
4     ***shall not exceed two thousand five hundred dollars (\$2,500) per***  
5     ***case.***

6     ***(c) The board shall provide a report to the Legislature by***  
7     ***January 1, 2012, that includes a summary of the expenditures and***  
8     ***claims relating to this section.***

9     ***(d) This section shall remain in effect only until January 1, 2013,***  
10    ***and as of that date is repealed, unless a later enacted statute that***  
11    ***is enacted before January 1, 2013, deletes or extends that date.***

12    ***SEC. 4. Section 8030.6 of the Business and Professions Code***  
13    ***is amended to read:***

14    **8030.6.** The board shall disburse funds from the Transcript  
15    Reimbursement Fund for the costs, exclusive of per diem charges  
16    by official reporters, of preparing either an original transcript and  
17    one copy thereof, or where appropriate, a copy of the transcript,  
18    of court or deposition proceedings, or both, incurred as a  
19    contractual obligation between the shorthand reporter and the  
20    applicant, for litigation conducted in California. If there is no  
21    deposition transcript, the board may reimburse the applicant or the  
22    certified shorthand reporter designated in the application for per  
23    diem costs. The rate of per diem for depositions shall not exceed  
24    seventy-five dollars (\$75) for a half day, or one hundred  
25    twenty-five dollars (\$125) for a full day. If a transcript is ordered  
26    within one year of the date of the deposition, but subsequent to  
27    the per diem having been reimbursed by the Transcript  
28    Reimbursement Fund, the amount of the per diem shall be deducted  
29    from the regular customary charges for a transcript. Reimbursement  
30    may be obtained through the following procedures:

31    **(a)** The applicant or certified shorthand reporter shall promptly  
32    submit to the board the certified shorthand reporter's invoice for  
33    transcripts together with the appropriate documentation as is  
34    required by this chapter.

35    **(b)** Except as provided in subdivision (c), the board shall  
36    promptly determine if the applicant or the certified shorthand  
37    reporter is entitled to reimbursement under this chapter and shall  
38    make payment as follows:

1 (1) Regular customary charges for preparation of original  
2 deposition transcripts and one copy thereof, or a copy of the  
3 transcripts.

4 (2) Regular customary charges for expedited deposition  
5 transcripts *or instant visual display services provided at depositions*  
6 up to a maximum of two thousand five hundred dollars (\$2,500)  
7 per case.

8 (3) Regular customary charges for the preparation of original  
9 transcripts and one copy thereof, or a copy of transcripts of court  
10 proceedings.

11 (4) Regular customary charges for expedited or daily charges  
12 for preparation of original transcripts and one copy thereof or a  
13 copy of transcripts of court proceedings.

14 (5) The charges may not include notary or handling fees. The  
15 charges may include actual shipping costs and exhibits, except  
16 that the cost of exhibits may not exceed thirty-five cents (\$0.35)  
17 each or a total of thirty-five dollars (\$35) per transcript.

18 (c) The maximum amount reimbursable by the fund under  
19 subdivision (b) may not exceed twenty thousand dollars (\$20,000)  
20 per case per year.

21 (d) If entitled, and funds are available, the board shall forthwith  
22 disburse the appropriate sum to the applicant or the certified  
23 shorthand reporter when documentation as provided in subdivision  
24 (d) of Section 8030.8 accompanies the application. A notice shall  
25 be sent to the recipient requiring the recipient to file a notice with  
26 the court in which the action is pending stating the sum of  
27 reimbursement paid pursuant to this section. The notice filed with  
28 the court shall also state that if the sum is subsequently included  
29 in any award of costs made in the action, that the sum is to be  
30 ordered refunded by the applicant to the Transcript Reimbursement  
31 Fund whenever the sum is actually recovered as costs. The court  
32 may not consider whether payment has been made from the  
33 Transcript Reimbursement Fund in determining the appropriateness  
34 of any award of costs to the parties. The board shall also forthwith  
35 notify the applicant that the reimbursed sum has been paid to the  
36 certified shorthand reporter and shall likewise notify the applicant  
37 of the duty to refund any of the sum actually recovered as costs in  
38 the action.



1 (e) If not entitled, the board shall forthwith return a copy of the  
2 invoice to the applicant and the designated certified shorthand  
3 reporter together with a notice stating the grounds for denial.

4 (f) The board shall complete its actions under this section within  
5 30 days of receipt of the invoice and all required documentation,  
6 including a completed application.

7 (g) Applications for reimbursements from the fund shall be  
8 filled on a first-come basis.

9 (h) Applications for reimbursement that cannot be paid from  
10 the fund due to insufficiency of the fund for that fiscal year shall  
11 be held over until the next fiscal year to be paid out of the renewed  
12 fund. Applications held over shall be given a priority standing in  
13 the next fiscal year.

14 (i) This section shall remain in effect only until January 1, ~~2011~~  
15 ~~2013~~, and as of that date is repealed, unless a later enacted statute,  
16 that is enacted before January 1, ~~2011~~ 2013, deletes or extends  
17 that date.

18 *SEC. 5. Section 8030.8 of the Business and Professions Code*  
19 *is amended to read:*

20 8030.8. (a) For purposes of this chapter, documentation  
21 accompanying an invoice is sufficient to establish entitlement for  
22 reimbursement from the Transcript Reimbursement Fund if it is  
23 filed with the executive officer on an application form prescribed  
24 by the board that is complete in all respects, and that establishes  
25 all of the following:

26 (1) The case name and number and that the litigant or litigants  
27 requesting the reimbursement are indigent persons.

28 (2) The applicant is qualified under the provisions of this  
29 chapter.

30 (3) The case is not a fee-generating case, as defined in Section  
31 8030.4.

32 (4) The invoice or other documentation shall evidence that the  
33 certified shorthand reporter to be reimbursed was, at the time the  
34 services were rendered, a duly licensed certified shorthand reporter.

35 (5) The invoice shall be accompanied by a statement, signed by  
36 the applicant, stating that the charges are for transcripts actually  
37 provided as indicated on the invoice.

38 (6) The applicant has acknowledged, in writing, that as a  
39 condition of entitlement for reimbursement that the applicant agrees  
40 to refund the entire amount disbursed from the Transcript

1 Reimbursement Fund from any costs or attorneys' fees awarded  
2 to the applicant by the court or provided for in any settlement  
3 agreement in the case.

4 (7) The certified shorthand reporter's invoice for transcripts  
5 shall include separate itemizations of charges claimed, as follows:

6 (A) Total charges and rates for customary services in preparation  
7 of an original transcript and one copy or a copy of the transcript  
8 of depositions.

9 (B) Total charges and rates for expedited deposition transcripts  
10 *or instant visual display services provided at depositions.*

11 (C) Total charges and rates in connection with transcription of  
12 court proceedings.

13 (b) For an applicant claiming to be eligible pursuant to  
14 subdivision (a), (b), or (c) of Section 8030.4, a letter from the  
15 director of the project or center, certifying that the project or center  
16 meets the standards set forth in one of those subdivisions and that  
17 the litigant or litigants are indigent persons, is sufficient  
18 documentation to establish eligibility.

19 (c) For an applicant claiming to be eligible pursuant to  
20 subdivision (d) of Section 8030.4, a letter certifying that the  
21 applicant meets the requirements of that subdivision, that the case  
22 is not a fee-generating case, as defined in subdivision (g) of Section  
23 8030.4, and that the litigant or litigants are indigent persons,  
24 together with a letter from the director of a project or center defined  
25 in subdivision (a), (b), or (c) of Section 8030.4 certifying that the  
26 litigant or litigants had been referred by that project or center to  
27 the applicant, is sufficient documentation to establish eligibility.

28 (d) The applicant may receive reimbursement directly from the  
29 board when the applicant has previously paid the certified  
30 shorthand reporter for transcripts as provided in Section 8030.6.  
31 To receive payment directly, the applicant shall submit, in addition  
32 to all other required documentation, an itemized statement signed  
33 by the certified shorthand reporter performing the services that  
34 describes payment for transcripts in accordance with the  
35 requirements of Section 8030.6.

36 (e) The board may prescribe appropriate forms to be used by  
37 applicants and certified shorthand reporters to facilitate these  
38 requirements.

1 (f) This chapter does not restrict the contractual obligation or  
2 payment for services, including, but not limited to, billing the  
3 applicant directly, during the pendency of the claim.

4 (g) This section shall remain in effect only until January 1, 2011  
5 2013, and as of that date is repealed, unless a later enacted statute,  
6 that is enacted before January 1, 2011 2013, deletes or extends  
7 that date.

8 ~~SECTION 1. It is the intent of the Legislature to enact~~  
9 ~~legislation addressing issues relating to the Transcript~~  
10 ~~Reimbursement Fund.~~